

In the Matter of:

CASE NO. 94-079

O R D E R

In February 1994, the Commission received letters of complaint from The Carbide/Graphite Group, Inc.; Universal Fasteners, Inc.; American Greetings; Signet Systems, Inc.; International Paper; Western Kentucky Hospital Services, Inc.; and Logan's, all customers of Western Kentucky Gas Company ("Western"). The complainants allege that as of February 1, 1994, they were denied transportation service after having been transportation customers for several years. Western filed its answer to the complaints on April 11, 1994. On June 21, 1994, the Commission issued an Order finding that a prima facie case had been established and scheduled an informal conference, which was subsequently held on July 25, 1994. On August 18, 1994, Western filed a revision to its transportation tariff Rate T-2 which was intended to settle the issue by waiving the volumetric criteria for customers who had been receiving transportation service on December 22, 1993.

The complaints center around the volumetric eligibility requirements for transportation service. In Case No. 92-558,¹ the Commission approved numerous changes to Western's tariff. The revised tariffs were effective December 22, 1993. The only change in the volumetric eligibility requirement for Rate T-2 transportation was from a daily minimum volume to an annual minimum volume. The historical volumes of the complainants indicate that although Western had been providing them transportation under Rate T-2, none of them actually qualified because they did not meet the daily minimum volume requirement. The establishment of terms such as a volumetric minimum, on which the provision of transportation service is based, should limit the utility's discretion and should give the customers a clear expectation of what services are available. Western's longstanding failure to enforce the terms of its tariff created the expectation on the part of the complainants that they would continue to receive transportation service under the terms of the revised tariff.

After considering the evidence of record and being otherwise sufficiently advised, the Commission finds that:

1. Waiving the volumetric requirement of Rate T-2 Transportation Service for all customers who were subscribing to this service on December 22, 1993 is reasonable and should be approved.

¹ Case No. 92-558, In the Matter of Limited Rate Change of Western Kentucky Gas Company, Order dated December 22, 1993.

2. The reinstatement of transportation service to all customers who had been receiving it on December 22, 1993 and who were subsequently denied service provides the remedy requested by the complainants.

IT IS THEREFORE ORDERED that:

1. Western's revised Rate T-2 Transportation Service tariff be and it hereby is approved.

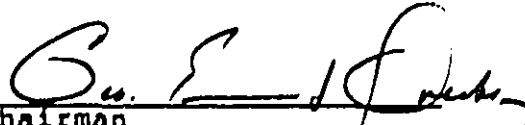
2. Within 20 days of the date of this Order, Western shall notify the affected customers that transportation service is again available to them. Western shall simultaneously file with this Commission a copy of its notification, along with a list of the customers to whom it was sent.

3. Within 20 days of the date of this Order, Western shall file its revised tariff approved herein.


4. This case be and it hereby is dismissed.

Done at Frankfort, Kentucky, this 18th day of October, 1994.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director